***

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5037 of 2007
Date of decision: 1. 10.2007

Shyam Lal

Petitioner

Versus

Smt. Krishna Wanti

Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. V. K. Jindal, Advocate for the petitioner.

****

RAJESH BINDAL, J.

The tenant is in revision against the order of eviction passed against him by the Appellate Authority on the ground of impairment in the value and utility of the shop and also that the tenant having ceased to occupy the shop in dispute for more than four months.

Here is a case where the petitioner/tenant had taken the shop owned by the respondent/landlord, which is at Partap Mandi Shahbad Markanda, District Kurukshetra for carrying on his business. It is not disputed that the petitioner/tenant was carrying on the business of commission agent in the tenanted premises before the de-notification of the market yard. On the establishment of a new Mandi at Shahbad where the petitioner/tenant had purchased one shop No. 183, New Grain Market, Shahbad in the name of his wife and the commission agency is being carried on there as no auction could be held in the Partap Mandi, which already stood denotified on December 14, 1995. In the statement of the Executive Officer, Market Committee, Shahbad, who appeared as PW-7, it was categorically stated that work of sale and purchase of the agricultural produce has totally stopped in the old grain market as after the setting up new grain market, the entire work is being done there and the firm of the

***

petitioner/tenant, namely, M/s Shyam Lal Parveen Kumar is also doing business in the new grain market. It has also come on record that after disconnection of electricity meter on August 20, 1999, no effort was made by the petitioner/tenant to get the same restored rather exhibits D-4 to D-15 produced by the petitioner/tenant are in the form of electricity bills issued from December 10, 2001 to October 12, 2002 and the receipts for payment thereof clearly show that the same was only on account of minimum charges, which would clearly prove that even during that period practically nothing was done there. The only claim made by the petitioner/tenant to justify occupation of premises was that it was only during the crop season that work is conducted from the new grain market otherwise entire work is conducted from the shop in dispute. Similar is the position with regard to telephone bills, which was got disconnected in the year 1998 for shifting to new grain market. The telephone bills produced by the petitioner/tenant on record pertained to the period from February, 2001 to September, 2002 and for the relevant period, the petitioner/tenant had not been able to justify his claim about occupation of the premises with any cogent evidence barring oral evidence. Here is a tenant who has got own premises to do the same business and that too in a regular grain market but still wants to occupy and grab the property under his tenancy since long. Such an action could not be justified by any reason whatsoever on record.

With these facts on record, I do not find that the petitioner/tenant has any right to remain in occupation of the premises as tenant. Even on the other ground of the material impairment in the value and utility of the shop also, learned Appellate Authority has found that by raising the plate form in front of the shop, the rainy water started entering into the tenanted shop, which had resulted in material impairment in the value and utility of the shop in question. Accordingly, even on this ground I do not find any reason to differ with the view taken by the Appellate Authority. Reliance of the learned counsel for the petitioner on the judgment in **Balraj Bhandari Vs. M/s Muni Lal Sudhwant Rai 2003 (2) Rent Control Reporter 341** is totally misplaced as in that case, the landlord could not prove that premises in question remained closed for a

***

period of more than four months whereas in the present case, there is a positive evidence available on record to that effect, which has already been considered by the Appellate Authority while ordering eviction of the petitioner/tenant.

Accordingly, while concurring with the view expressed by the Appellate Authority, I do not find any merit in the present petition and the same is dismissed.

October 01, 2007 **(Rajesh Bindal)**
Pka **Judge**